

Remarks

I. 35 U.S.C. §112

Claim13 stands rejected under 35 U.S.C. §112, second paragraph.

Applicants have amended claim 13 as suggested in the Office Action, and thank the Examiner for his attention to detail.

II. 35 U.S.C. §102

Claim17 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No 5,847904 to Bharthulwar. The office Action states:

With regard to the claimed process steps involving the first and second mask layers, a “product by process claim” is directed to the process per se, no matter how actually made.

Applicants respectfully disagree that claim 17 includes process steps. Applicants respectfully assert that Bharthulwar does not disclose the mask layers recited in claim 17, and that the Office Action has not presented a prima facie rejection of claim 17 over Bharthulwar.

III. 35 U.S.C. §103

Claims1-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No 5,847904 to Bharthulwar. The office Action states, in part:

Bharthulwar is silent as to the TW width (cl. 3 and cl. 10 less than one-half micron, “submicron”) and does not disclose the height at the second distance ($d=d+TW$) being less than ten microns.

With regard to the submicron trackwidth, the examiner takes Official Notice that the use of submicron track widths are old and well known in the art and therefore no unobvious result is seen to exist in using a submicron trackwidth for the “TW” of Bharthulwar.

Applicants respectfully object to the Office Action’s assertion of Official Notice that “less than one-half micron track widths are old and well known in the art,” and respectfully request the Examiner to present a reference to support this assertion. Should the assertion of Official Notice be based upon the personal knowledge of the Examiner, the Examiner is respectfully requested to provide an affidavit as required by 37 C.F.R. §104(d)(2).

Applicants have amended claim 1 to recite, in part, that "said first distance is less than one-quarter micron." Support for this amendment can be found, for example, in paragraph 31 and FIGs. 6-8. Applicants respectfully assert that Bharthulwar and the other cited references do not teach or suggest the limitations recited in amended claim 1, and that the Office Action has not presented a prima facie rejection of claim 1 over Bharthulwar.

Applicants have amended claim 10 to recite, in part, a "track width that is in a range between one-quarter micron and one nanometer." Support for this amendment can be found, for example, in paragraph 39 and FIG. 13. Applicants respectfully assert that Bharthulwar and the other cited references do not teach or suggest the limitations recited in amended claim 10, and that the Office Action has not presented a prima facie rejection of claim 10 over Bharthulwar.

IV. New Claims

Applicants have added new claims 23-26 to present limitations similar to those being considered for the other pending claims. Because the total number of pending claims and the number of pending independent claims is not more than the respective numbers of total and independent claims already paid for, no fee is required for the new claims.

V. Conclusion

Applicants respectfully request consideration of the pending claims in light of the above amendment and remarks. Applicants believe that the claims are in condition for allowance, and a Notice of Allowance is solicited.

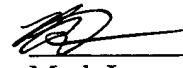
Respectfully submitted,

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on February 20, 2004.

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